IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

FRIDAY, THE 27TH JULY 2007 / 5TH SRAVANA 1929

WP(C).No. 22940 of 2007(E)

PETITIONERS:

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1. C. KUNHAMMED,
   S/O. LATE P. ABDUL RAHIMAN HAJI, PALLAKI HOUSE,
   AJANUR, THEKKEPURAM.

2. C. SHAMSHUDIN,
   S/O. LATE P. ABDUL RAHIMAN HAJI, PALLAKI HOUSE,
   KOLAVAYAL.

3. C. MOHAMMED KUNHI,
   S/O. LATE P. ABDUL RAHIMAN HAJI, PALLAKI HOUSE,
   KOLAVAYAL.

4. NAJMA K.P., D/O.C.MOHAMMED KUNHI
   PALLAKI HOUSE, KOLAVAYAL.

BY ADV. SRI.M.RAMESH CHANDER

RESPONDENTS:

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1. THE DISTRICT COLLECTOR, KASARAGOD.

2. THE REVENUE DIVISIONAL OFFICER,
   KASARAGOD AT KANHANGAD.

3. ASSISTANT EXECUTIVE ENGINEER,
   P.W.D. ROAD SUB DIVISION, KANHANGAD.

BY GOVT. PLEADER SRI.I.V.PRAMOD.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 27/07/2007, ALONG WITH WP(C) NOS.22946 & 22941/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S. SIRI JAGAN, J.

WP(C) NO. 22940, 22941 & 22946 OF 2007

Dated this the 27th day of July, 2007

J U D G M E N T

The petitioners are challenging notices issued under the Kerala Land Conservancy Act directing them to vacate the land within 24 hours. The contention of the petitioners is that the land belongs absolutely to them and they are not in unauthorised occupation of any Government land. They also contend that before issuing the orders evicting them, they have not been afforded an opportunity of being heard.

2. I have heard the learned Government Pleader also. The learned Government Pleader could not satisfy me that the impugned notices have been issued after complying with the principles of natural justice, insofar as the petitioners have not been afforded an opportunity of being heard. As such, the impugned notices are liable to be quashed. However, if the impugned notices are treated as show cause notices, it may not be necessary to quash the same. In the above circumstances, these writ petitions

are disposed of with the following directions:-

The concerned Tahsildar shall treat the impugned orders as notices to show cause. The petitioners shall file their objections within a period of two weeks from today. The Tahsildar shall afford them an opportunity of being heard which shall include opportunity to adduce evidence also. Thereafter, a speaking order shall be passed meeting the contentions of the petitioners on the basis of the evidence to be adduced by them. Till after seven days of communication of the orders to the petitioners, they shall not be evicted from the properties in question.

S. SIRI JAGAN,
Judge

Mbs/

S.SIRI JAGAN, J

W.P.(C) NO. OF 2001

J U D G M E N T

DATED:01-06-2007